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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,926	10/20/2000	Douglas J. Cowell	00-5019	8386

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EXAMINER

AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
2642	7

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/692,926

Applicant(s)

COWELL ET AL.

Examiner

Hector A. Agdeppa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 4/29/04. Claims 1 – 46 are now pending in the present application. **This action is made final.**

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1 – 7, 9 – 13, 17 – 26, 31 – 37, and 39 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,405,033 (Kennedy, III et al.) in view of US 4,757,267 (Riskin).

As to claims 1 – 3, 17 – 22, and 31 - 33, Kennedy et al. teaches a system wherein a user makes a call from a mobile unit 12 to network switching center (NSC) 14, read as the claimed switching control node, to request any one of a number of services, for example, a roadside assistance service and an information service, read as the claimed first and second services. Also note that mobile switching centers

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(MSCs) 106 and 108 read on the claimed switching node from where a call is initiated.

(Figs. 1 and 6, Col. 2, lines 41 – 58, Col. 3, line 61 – Col. 4, line 22, Col. 9, lines 49 – 65, Col. 10, lines 55 – 67)

Kennedy et al. also teaches that the services have various types, i.e., for roadside services, specifically, towing, taxi/shuttle, car dealership services, etc. and for information services, specifically news agencies, weather bureaus, travel services, etc., any of the aforementioned services read as the claimed type of the first service, second type of the first service, first type of the second service, etc. (Fig. 6, Col. 2, lines 30 – 40)

Lastly, Kennedy et al. teaches that dependant upon what service and service type is requested, the call will be routed to one of a plurality of service centers 16 that can accommodate/provide the requested service. (Col. 1, line 53 – Col. 2, line 29, Col. 4, lines 16 – 21, Col. 11, lines 22 – 42)

Note that while Kennedy et al. teaches as the usual embodiment, pressing a key or button on mobile unit 12 to request a service, see Fig. 10 and Col. 25, lines 31 – 45, wherein it is taught that connection to the various service centers 16 is ultimately made either via a voice/standard telephony number connection or a data connection using web addresses, IP addresses, or 800 numbers as well.

What Kennedy et al. does not teach is matching a trigger number to a predetermined trigger number and requesting selection of various services depending on whether or not the trigger number match up.

However, Riskin teaches a system wherein a caller may call into a directory/service center/routing center using for example, an 800 number that is associated with a certain service/dealer and if the dialed number, i.e., the trigger number matches one of those 800 numbers, a caller will be connected to a service center/dealer handling the associated service. (Col. 15, line 55 – Col. 16, line 44 of Riskin)

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have combined the teachings of Kennedy et al. and Riskin inasmuch as both systems are drawn to servicing a call request via a plurality of service centers/call centers. Moreover, Riskin's teaching of a trigger number being "keyed"/associated with a specific service/service center is very old and well known and as already discussed, Kennedy et al. also teaches ultimately connecting to a service/service center using such a number, even though it is not specifically discussed as being such a trigger number. A trigger number as claimed and as taught in the specification, pages 7 – 8 is merely a number that is associated with a specific service/service center and allows for a more direct connection to that service/service center.

Riskin also teaches that if a given 800 number does identify a specific service/service center, an extension is required to further identify the service/service center, the caller wishes to effect or connect to. This is read as the claimed, trigger number not matching the predetermined trigger number and requesting the caller to further pick a type of service so that the service request can be properly identified and

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routed to the correct service center. (See the above reference cited in Riskin and also see Col. 6, lines 1 – 12 of Riskin).

Lastly, Riskin teaches that if a certain dealer is unavailable for some reason, alternative dealers are provided to the caller to connect to, read as the claimed plurality of related types. This is because if a dealer of flowers, for example, is unavailable, another dealer of flowers in the caller's location is provided to the caller. Also, if there are more than one nearby dealers of a certain desired product or service, the caller is presented with the different choices and is allowed to select one. (Col. 2, lines 37 – 58, Col. 3, lines 65 – 67, Col. 4, lines 4 – 11 of Riskin)

As to claims 4 – 6, 23, 24, and 34 – 36, Riskin teaches that a caller will be connected to one of a plurality of the closest dealers/service centers nearest to the caller, based on the calling number, and associated with either a state, city, zip code, etc. (Col. 2, line 37 – Col. 4, line 11, Col. 6, line 24 – Col. 7, line 8, and Col. 8, lines 13 – 55 of Riskin)

Kennedy et al. also teaches that a service call will be routed to an appropriate service center, depending upon where that mobile unit 12, caller is located. (Col. 2, lines 12 – 21 of Kennedy et al.)

As to claims 7, 9, 37, and 39, Riskin teaches the use of call record journals read as the claimed status log, wherein one of the recorded elements is whether a call was completed or not to a specific dealer, read as the claimed call status. (Col. 17, lines 35 – 55 of Riskin)

Riskin further teaches that if a first dealer cannot be reached, i.e., the dealer is presently busy or is simply not answering, the option is given to the caller of being connected to another dealer. Therefore, the status information is used to determine where subsequent calls will be routed to in the sense that another dealer will be contacted to complete the service request instead. (Col. 8, lines 37 – 67 and Col. 19, lines 32 – 67 of Riskin)

As to claims 11 – 13, 26, and 41 - 43, as seen in both Riskin and Kennedy et al. (see the above noted references and figures), and as is well known in the call center arts, any of the plurality of service centers can be made to be an auxiliary service center. Such is a design choice or preference involving merely configuring a system as desired.

3. Claims 10, 25, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,405,033 (Kennedy, III et al.), US 4,757,267 (Riskin), and further in view of US 5,404,350 (DeVito et al.)

Riskin has been discussed above as teaching that when a no answer or busy call results, a caller will be either automatically connected to another “near” dealer or will be given the option to connect to that other “near” dealer. The no answer or busy condition could be the result of a network error, and when such a condition is met, rerouting the call to another dealer, read as the claimed auxiliary service center is done.

Also, it is old and well known to have redundant systems wherein if one service center is detected as having a network fault condition associated therewith, transferring

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or rerouting the call to a redundant center. Such a system is taught by DeVito et al. wherein if a switch or carrier servicing a service center or ACD is inaccessible, as due to a network fault, the caller is routed to an alternate service center, read as the claimed auxiliary service center. (Abstract, Col. 1, lines 30 – 61, Col. 2, lines 8 – 17 and Col. 2, line 55 – Col. 3, line 17, Col. 3, lines 33 – 41)

It would have been obvious for one of ordinary skill in the art to have combined the teachings of Kennedy, III et al., Riskin, and DeVito et al. because the very purpose of DeVito et al. is to employ a method of allowing a call to an inaccessible ACD system, such as those taught by Kennedy and Riskin, to be routed to an alternative ACD system.

4. Claims 8, 14 – 16, 27 – 30, 38, and 44 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,405,033 (Kennedy, III et al.), US 4,757,267 (Riskin), and further in view of US 2002/0076031 (Falcon et al.)

As to claims 8 and 38, Kennedy et al. and Riskin have been discussed above.

What they do not teach is status information including abandoned calls.

However, it is old and well known in the call center arts to address the issue of abandoned calls as taught by Falcon et al. (P. 1, ¶ 0002) Falcon et al. also teaches a system for connecting a caller making a service request to any number of agents, remote or local, servicing a plurality of call centers, taking and storing caller information such as past caller history which would include any calls abandoned by a caller. (P. 3, ¶ 0025, 0028, 0029 of Falcon et al.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated such information in the combination of Kennedy et al. and Riskin inasmuch as this is common problem, and because it is also old and well known for service centers to provide a higher priority to a caller who previously abandoned a call in hopes of gaining their business and lessening a caller's frustration at having to abandon their call.

Furthermore, as already discussed above, Riskin teaches handling and recording call information/status such as no answer/busy calls which could be likened to an abandoned call inasmuch as Riskin teaches giving a caller the option to try their call again later. (Col. 19, lines 33 – 35 of Riskin)

Also, Kennedy et al. teaches considering call status such as priority status for emergency calls, for example, wherein a call having emergency priority status will receive expedited service. (Col. 11, lines 4 – 21 of Kennedy et al.)

Falcon et al. also teaches utilizing call status to properly route a call to the appropriate agent/call center. (P. 4, ¶ 0041 of Falcon et al.)

As to claims 14 – 16, 29, 30, and 44 – 46, Falcon et al. also teaches distinguishing between residential lines and business lines, as well as providing ISDN and ADSL service. (P. 3, ¶ 0025 and P. 4, ¶ 0039)

Note that Kennedy et al., Riskin, and Falcon et al. are not limited by the services and/or types of services that may be offered and in fact, contemplate their systems being used for almost any service. Again, such is merely a design and preference choice. Therefore, requesting residential or business service would be obvious and is

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also old and well known as a distinction when requesting service – hence the distinction discussed above re: Falcon et al. Also, because ISDN and ADSL are well known protocols and configurations as taught by Falcon et al., such would also be obvious as a service type. Even applicant's claims suggest this flexibility and interchangeability between the services/service types.

As to claims 27 and 28, Kennedy teaches diagnostic testing of any and all components or related system elements as well as testing to verify proper communications between mobile unit 12 and NSC 14. (Col. 9, line 49 – Col. 10, line 11 and Col. 19, lines 22 – 42 of Kennedy et al.)

Response to Arguments

5. Applicant's arguments regarding the Riskin reference have been addressed above.

Applicant's arguments with respect to claims 10, 25, and 40 have been considered but are moot in view of the new ground(s) of rejection.

As to applicant's arguments regarding claims 27 and 28, even though the testing of audio discussed in Kennedy, III et al. MAY be via an actual call between modem 44 of unit 12 and modem 304 or NSC 14, further description teaches that such tests may be performed by a technician. Such suggests that the call made, during which the audio test is performed is a test call. There is really no way for a technician to perform a test during an actual call by a user – no system would allow such a disruptive act. Furthermore, test call generators are merely devices, or software that allow either real

OR simulated calls to occur so that certain features of a telephone may be tested.

Therefore, it would still be obvious if not inherent that when a technician is testing a unit 12, he/she is using some type of test call generator.

As to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Also, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art**. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In addition, a suggestion/motivation **need not be expressly stated** in one or all of the references used to show obviousness. *Cable Electric Products, Inc. V. Genmark, Inc.*, 770 F.2d 1015, 1025, 226 USPQ 881, 886 (Fed. Cir. 1985); *In re Sheckler*, 438 F.2d 999, 1001, 168 USPQ 716, 717 (CCPA 1971). It is assumed that every reference relies to some extent on the knowledge of persons skilled in the art to complement that which is disclosed therein. Further, the skilled artisan is presumed to know something

more about the art than only what is disclosed in the applied references. In other words, **the person having ordinary skill in the art has a level of knowledge apart from the content of the references.** *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977); *In re Jacoby*, 309 F.2d 513,516, 135 USPQ 317, 319 (CCPA 1969)

This relates to suggestion/motivation in that "having established that this knowledge was in the art, the Examiner could then properly rely ... on a conclusion of obviousness 'from **common knowledge and common sense** of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference'." *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545,549 (CCPA 1969)

Furthermore, careful reading of Riskin, as discussed in the above rejection, indicated that Riskin does NOT merely automatically connect a caller to a dealer of goods or services but rather is given an option to choose. (See Col. 3, lines 65 – 67 of Riskin) Therefore, Riskin and Kennedy III, et al. are NOT disparate teachings as erroneously suggested by applicant.

As to applicant's lack of reasonable expectation of success argument, for the reasons already discussed, Riskin and Kennedy III, et al. would indicate a reasonable expectation of success.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


AHMAD F. MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700

H.A.A.
July 7, 2004